



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Utah State Office  
P.O. Box 45155  
Salt Lake City, UT 84145-0155  
<http://www.blm.gov>



IN REPLY REFER TO:  
3590  
UTU-067049  
(UT-923)

JUN 10 2004

CERTIFIED MAIL--Return Receipt Requested

Mr. Earl White  
American Gilsonite Company  
Bonanza, Utah 84008

Re: Mining Plan for the Wagon Hound #2 and #3 mines on Federal Gilsonite Lease UTU-067049

### NOTICE OF NONCOMPLIANCE

The Bureau of Land Management (BLM) is issuing this notice of non-compliance to American Gilsonite Company for failure to comply with the approved Mine plan for the Wagon Hound #3 mine and for failure to comply with lease terms and conditions on the Wagon Hound #2 mine located on Federal Gilsonite Lease U-067049.

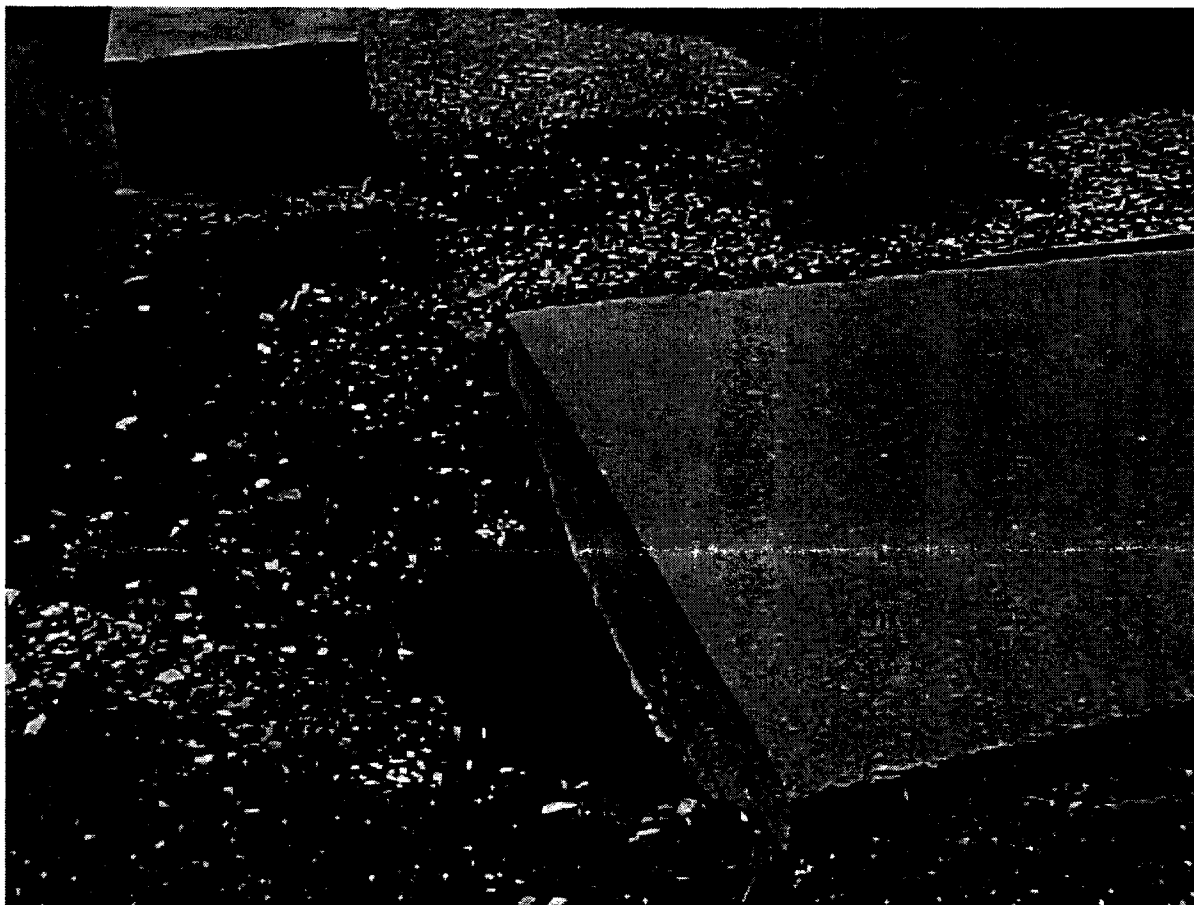
On March 30, 2004, BLM conducted a quarterly inspection on Federal Gilsonite Lease UTU-067049. BLM found a road that has been constructed from the Wagon Hound #3 mine Northeast for a considerable distance. This road is not part of the mining plan that has not been approved for the Wagon Hound #3 mine nor for any other operation on the lease.

During the same inspection BLM was reviewing the reclamation requirements on this lease and noticed that the Wagon Hound #2 mine shaft had been covered. In May of 2000 there was concern on the part of the BLM because the shaft cap had been compromised underneath the vein. The regulations require that the operator/lessee shall close all surface openings to the satisfaction of the authorized officer (43 CFR 3595.1(a)).

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DIV. OF OIL, GAS & MINING



**Figure 1 Wagon Hound #2 Shaft compromised along vein portion in May 2000.**

Requirements to Correct the Noncompliance:

**Wagon Hound #2 Mine shaft cover.**

The operator shall provide photographic proof of and a written explanation what was done to resolve the compromise problem. If this cannot be accomplished, the lessee shall provide a plan to uncover the shaft cap and allow for BLM inspection and further direction. BLM also requires a plan to reclaim the road and complete reclamation of the ventilation breakout at this mine. This shall be provided within 30 days of receipt of this Noncompliance.

**Wagon Hound #3 Road.**

BLM requires that within 30 days of receipt of this letter that American Gilsonite submit to BLM a schedule to reclaim the road. The schedule must have the start date for road reclamation no later than 60 days after receipt of this letter. If the road is required for mining operations the lessee shall submit a mining plan modification and justify why the road is necessary and what the road will be used for within 30 days of receipt of this letter.

Reclamation will include meeting natural contours or original contours. Water bars shall be placed in the reclaimed area according to the following schedule.

Slope	2%	2-4%	4-5%	+5%
Water Bar spacing	200 feet	100 feet	75 feet	50 feet

Any seeding will be done in accordance with the approved mining plan for the Wagon Hound #3 mine and the lease. Seeding should not begin until the fall season.

Failure to comply with the Noncompliance:

Failure to comply with this notice of noncompliance may result in a cessation of operations order being placed on lease UTU-067049 as per 43 CFR 3598.4(a).

Appeal Rights

You have 30 calendar days from the receipt of this notice to come into compliance. Following the compliance period, you then have 30 calendar days to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 calendar days following the end of the compliance period. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that you appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards;

- (1) The relative harm to the parties if a stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of the immediate and irreparable harm if the stay is not granted, and;
- (4) Whether the public interest favors granting the stay.

Sincerely,

James F. Kohler

James F. Kohler  
Chief, Solid Minerals Branch

Enclosure  
Form 1842-1

cc: VFO

Paul Baker, Utah Division of Oil, Gas and Mining, P.O. Box 145801, Salt Lake City, Utah 84114-5801  
w/o enc.